

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL NO. 1:05CV80

IN RE:)	
OTTO CLAUDE and LINDA C.)	
SMITH,)	
)	
Debtors.)	
)	
OTTO CLAUDE SMITH and LINDA C.)	
SMITH,)	
)	
Appellants,)	
)	
Vs.)	<u>ORDER OF DISMISSAL</u>
)	
CROWFIELDS CONDOMINIUM)	
ASSOCIATION,)	
)	
Appellee.)	
)	

THIS MATTER is before the Court on the Appellee's motion to dismiss the appeal herein. No response has been received from the Appellants/Debtors.

The Order from which the Appellants sought to appeal was entered on March 17, 2005. The Appellants' notice of appeal was filed on March 31, 2005, 14 days later. The three day extension provided by Bankruptcy Rule 9006(f) applies only when a time period begins to run from the date of service of an order. The ten-day period within which to file a notice of appeal provided by Bankruptcy Rule 8002(a) is not such a period and the time begins to run from the date of entry of the order, not service thereof. *In re Williams*, 216 F.3d 1295 (11th Cir. 2000); *In re B. J. McAdams, Inc.*, 999 F.2d 1221 (8th Cir. 1993); *In re Arbuckle*, 988 F.2d 29, 31-32

(5th Cir. 1993); *In re Wigoda*, 11 Fed. Appx. 634, 635 (7th Cir. 2001); *Brown v. Zanek*, 162 F.3d 1172 (table), 1998 WL 738340 (10th Cir. 1998).

IT IS, THEREFORE, ORDERED that the appeal is hereby **DISMISSED** as untimely.

Signed: May 10, 2005



Lacy H. Thornburg
United States District Judge

